

REMARKS/ARGUMENTS

This Amendment and the following remarks are intended to fully respond to the Office Action mailed April 6, 2007. In that Office Action claims 1-70 were examined, and all claims were rejected. More specifically, claims 42-57 were rejected under 35 U.S.C. § 101 because the Examiner asserted that these claims are directed to non-statutory subject matter; claims 1-4, 6-23, 25-28, 30-40, and 42-70 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Leovac (U.S. Pat. 6,668,375), in view of Hargrove et al. (U.S. Pub. 2003/0037325), hereinafter “Hargrove”; and claims 5, 24, 29, and 41 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Leovac, in view of Hargrove, and further in view of Weisman et al. (U.S. Pub. 2003/0028870), hereinafter “Weisman”. Reconsideration of these rejections, as they might apply to the original and amended claims in view of these remarks, is respectfully requested.

In this Response, claims 1, 8, 10, 14, 16, 19, 22-23, 26-28, 30-32, 36, 38-40, 42, 44-53, 55-58, 60, 62, 66, and 69 have been amended; claims 7, 15, 17, 21, 25, 29, 33-35, 37, 41, 43, 54, 59, 61, and 67 have been cancelled; and no claims have been added.

Claim Rejections – 35 U.S.C. § 101

Claims 42-57 were rejected under 35 U.S.C. § 101 because the Examiner asserted that the claims are directed to non-statutory subject matter. Applicants traverse this rejection, however in the interest of expedited prosecution, claims 42, 44-53, and 55-57 have been amended to recite a computer storage media. According to the specification,

[c]omputer storage media includes volatile and nonvolatile, removable and non-removable media implemented in any method or technology for storage of information such as computer readable instructions, data structures, program modules or other data. Memory **204**, removable storage **208** and non-removable storage **210** are all examples of computer storage media. Computer storage media includes, but is not limited to, RAM, ROM, EEPROM, flash memory or other memory technology, CD-ROM, digital versatile disks (DVD) or other optical storage, magnetic cassettes, magnetic tape, magnetic disk storage or other magnetic storage devices, or any other medium which can be used to store the desired information and which can accessed by system **200**.

(Specification, p. 6:6-14). The embodiments recited in the amended claims are encoded in tangible, computer readable media and are, thus, patentable subject matter under 35 U.S.C. § 101. *In re Beauregard*, 53 F.3d 1583, 1584 (Fed. Cir. 1995). These amendments are made

without prejudice and Applicants reserve the right to pursue these claims, as they stood before the current amendments, in future applications.

Claim Rejections – 35 U.S.C. § 103

Claims 1-4, 6-23, 25-28, 30-40, and 42-70 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Leovac, in view of Hargrove. Claims 7, 15, 17, 21, 25, 33-35, 37, 43, 54, 59, 61, and 67 have been cancelled.

Applicants respectfully traverse the § 103(a) rejections because either the Examiner failed to state a *prima facie* case of obviousness or the current amendments to the claims now render the Examiner's arguments moot. To establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a), the references must teach or suggest all of the claimed limitations to one of ordinary skill in the art at the time the invention was made. M.P.E.P §§ 2142, 2143.03; *In re Royka*, 490 F.2d 981, 985 (C.C.P.A. 1974); *In re Wilson*, 424 F.2d 1382, 1385 (C.C.P.A. 1970). Further, under *KSR Int'l Co. v. Teleflex, Inc.*, there "must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." 127 S. Ct. 1727, 1741 (2007). Specifically, the references Leovac and Hargrove fail to teach or suggest all of the claimed limitations; particularly, "packaging at least one storage medium in at least one of a plurality of different distribution packages" and providing "at least one lookup table, the lookup table associating each different software product with a different product key and different branding information," as recited in claim 1.

Leovac recites a "system and corresponding method for unlocking options in already installed software." (Leovac, Abstract). The Leovac method allows for "unlocking" options as customers desire and pay for them in addition to the original basic-build software already installed. (*Id.*) The Leovac method addresses the problem of preventing customers from accessing options they have not paid for by creating a security "key" through a "secure hash algorithm" which is then provided to the customer. (Leovac, col. 3, ll. 39-53). Leovac, however, does not teach or suggest incorporating the packaging with customer distribution of various software products, such as "packaging at least one storage medium in at least one of a plurality of different distribution packages," or using a lookup table, "at least one lookup table, the lookup table associating each different software product with a different product key and different branding information," as recited in claim 1. These claimed limitations address the separate

problem of providing “for efficient distribution of related software products . . . [where the] software developer need only develop one set of storage media for the software product, rather than create and inventory a separate and distinct storage media for each version of the software product.” (Specification, p. 5, ll. 20-21, 25-27).

Hargrove discloses a system and methods relating to “automatically” installing a correct software version where the operating systems and localized language requirements may differ from computer to computer. (Hargrove, Abstract). The Hargrove reference addresses the problem of installing a version of software compatible with a computer’s operating system and localized language without requiring the user to prompt and direct the installation. Again, the Hargrove reference does not teach or suggest incorporating a packaging limitation with customer distribution, including “packaging at least one storage medium in at least one of a plurality of different distribution packages,” or using a lookup table, “at least one lookup table, the lookup table associating each different software product with a different product key and different branding information,” as recited in claim 1.

The Applicants note that the Examiner did not previously address the packaging limitation which requires “packaging at least one storage medium in at least one of a plurality of different distribution packages,” as recited in claim 1. In the rejection, the Examiner cited Leovac (“If the keys match, the installation module unlocks the options requested . . . the requested options form a file of options . . . on the installation medium . . . onto the customer system as installed options . . . and it eliminates from the customer system any exclusions,” col.3 lines 53-65; Examiner’s Detailed Action, p. 8). The keys discussed in the Leovac reference are created and passed on to the customer via a customer service system. (Leovac, col. 1, ll. 46-57). In fact, packaging has no impact upon whether the customer receives the proper key or the proper software. The Applicants traverse this rejection because the Leovac reference does not teach or suggest a packaging limitation.

In addition to independent claim 1, the independent claims 10 (“packaging at least one data storage disc in at least one of a plurality of different distribution packages”), and 30 (“packaging at least one of the plurality of storage media in at least one of a plurality of different distribution packages”) recite similar packaging limitations and, for at least the reasons noted above, should be allowable over both the Leovac and Hargrove references. Claims 2-4, 6, 8-9,

11-14, 16, 18, 31-32, 36, and 38-40 which depend from claims 1, 10, and 30, should also be allowable for at least the above stated reasons.

The Office Action did not address the limitation requiring “at least one lookup table, the lookup table associating each different software product with a different product key and different branding information,” as recited in claim 1. In the rejection, the Examiner cited Leovac (“secure hash algorithm,” col. 3 lines 35-52; Examiner’s Detailed Action, p. 6). However, the Leovac reference describes a secure hash algorithm that is used to compute a key “of constant length (160 bits) for a message of a length less than 2^{64} bits” to be sent to the customer of a valid “alteration request.” (Leovac, col. 3, lines 36-46). The secure hash algorithm described in the Leovac reference does not act to associate the differing features of a particular version, i.e. runtime behaviors, installation characteristics, and user licensing agreements, with a version-specific product key. Rather, the Leovac secure hash algorithm provides a secure method for distributing keys to ordering customers. The Applicants traverse this rejection because the Leovac reference does not teach or suggest the use of a lookup table to associate distinct product keys with version-specific runtime and installation behaviors and version-specific licensing agreements.

In addition to claim 1, independent claims 10 (“at least one lookup table in a file on the at least one data storage disc, the lookup table identifying a different product key with each one of the plurality of different software application versions on the at least one data storage disc”), 19 (“a lookup table that associates each software product with a different product code, its distinct set of installation and runtime behaviors, and different entitlement information”), 30 (“a lookup table that associates a different product key with the distinct set of runtime behaviors and installation characteristics for each version of the software application”), 42 (“a file containing at least one lookup table that associates each version of the software application with a different one of a plurality of product keys”), 49 (“providing at least one lookup table in a file on the at least one data storage disc, the lookup table associating a different product key with each one of the plurality of versions on the at least one data storage disc”), and 58 (“wherein the SKU file includes at least one lookup table, and wherein the lookup table identifies a different product key with each of the plurality of versions”) contain language requiring the use of lookup tables to associate identifiers with the particular software versions to be installed; such as package markings, product keys, runtime behaviors, installation characteristics, entitlement information,

and end-user licensing agreements. For at least the reasons cited above, claims 1, 10, 19, 30, 42, 49, and 58 should be allowable over both Leovac and Hargrove. Claims 2-4, 6, 8-9, 11-14, 16, 18, 20, 22-23, 26-28, 31-32, 36, 38-40, and 44-48, 50-53, 55-57, 60, 62-66, 68-70, which depend from claims 1, 10, 19, 30, 42, 49, and 58, should also be allowable over Leovac and Hargrove for at least the above stated reasons.

Claims 5, 24, 29, and 41 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Leovac, in view of Hargrove, and further in view of Weisman. Claims 29 and 41 were cancelled.

Weisman discloses a method for downloading software via a network connection. (Weisman, p. 1, para. [0006]). The Weisman reference responds to problems involving error-prevention and time-efficiency in downloading. (Weisman, p. 1, para. [0008]). The Weisman reference does not does not teach or suggest incorporating a packaging limitation with customer distribution, including “packaging at least one storage medium in at least one of a plurality of different distribution packages,” or using a lookup table, “at least one lookup table, the lookup table associating each different software product with a different product key and different branding information,” as recited in claim 1.

As claims 5 and 24 depend from claims 1 and 19, for at least the reasons stated above, these claims should be allowable over Leovac, Hargrove, and Weisman.

In light of the arguments stated above, the Applicants respectfully request that the Examiner withdraw his rejection and issue a notice of allowance for all current claims.

Conclusion

This Amendment fully responds to the Office Action mailed on April 6, 2007. Still, that Office Action may contain arguments and rejections that are not directly addressed by this Amendment due to the fact that they are rendered moot in light of the preceding arguments in favor of patentability. Hence, failure of this Amendment to directly address an argument raised in the Office Action should not be taken as an indication that the Applicant believes the argument has merit. Furthermore, the claims of the present application may include other elements, not discussed in this Amendment, which are not shown, taught, or otherwise suggested by the art of record. Accordingly, the preceding arguments in favor of patentability are advanced without prejudice to other bases of patentability.

Included herewith is a Petition for Extension of Time under 37 C.F.R. §1.136(a), requesting a one month extension of time and providing the appropriate fee for a large entity. It is believed that no further fees are due with this Response. However, the Commissioner is hereby authorized to charge any deficiencies or credit any overpayment with respect to this patent application to deposit account number 13-2725.

In light of the above remarks and amendments, it is believed that the application is now in condition for allowance and such action is respectfully requested. Should any additional issues need to be resolved, the Examiner is requested to telephone the undersigned to attempt to resolve those issues.

8/6/07
Date



Respectfully submitted,

A handwritten signature in black ink, appearing to read "T. B. Scull". The signature is written in a cursive, stylized manner.

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